

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:90cr85-5**

UNITED STATES OF AMERICA,

Vs.

DARYL PERNELL CAMPS,

Defendant.

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**SECOND
INDICATIVE RULING
and
ORDER**

THIS MATTER is before the court on defendant's *pro se* second "Motion to Alter or Amend the Judgment or Reconsider Pursuant to Federal Rule of Civil Procedure 59(e)" (#100), which the court deems to be a second Motion for Reconsideration. Contemporaneous with such filing, defendant filed a Notice of Appeal (#101) as to the Order on which he seeks reconsideration, and such appeal is pending before the Court of Appeals for the Fourth Circuit. In addition to appealing the Order on reconsideration, defendant earlier appealed the original Order (#87) denying him relief under § 3582, which is also pending. Thus, defendant has now filed two motions seeking reconsideration of the original Order, see #96 & #100, and two appeals. See #93 & #101.

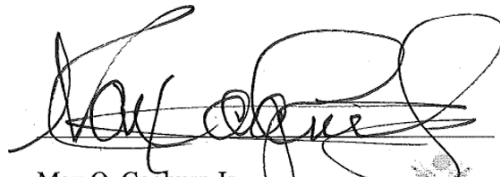
In accordance with Rule 12.1, Federal Rules of Appellate Procedure, the court has closely reviewed defendant's second Motion to Reconsider and, as an indicative ruling, finds no basis to grant the motion and that the motion does not raise a substantial issue. The court reincorporates its first Indicative Ruling and Order herein by reference. As provided in the first Indicative Ruling and Order, the court can find no basis for granting him the relief he seeks as the drug quantity involved 8.4 kilograms or more of crack cocaine, which flatly prohibits applying Amendment 750 to his case.

While the court greatly appreciates the civil and polite pleadings he has filed, defendant is advised that he has now exhausted Rule 59 and that his only avenue for relief at this point on the Amendment 750 issue is in pursuing his appeals with the Court of Appeals for the Fourth Circuit.

ORDER

IT IS, THEREFORE, ORDERED that as to defendant's *pro se* second "Motion to Alter or Amend the Judgment or Reconsider Pursuant to Federal Rule of Civil Procedure 59(e)" (#100), which the court deems to be a Motion for Reconsideration filed after appeal, the court finds as an **INDICATIVE RULING** no basis to grant the motion and further that the motion does not raise a substantial issue, all for the reasons herein stated.

Signed: September 30, 2012



Max O. Cogburn Jr.
United States District Judge